

SB0210



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0210

Introduced 2/7/2007, by Sen. Gary G. Dahl

SYNOPSIS AS INTRODUCED:

5 ILCS 220/6

from Ch. 127, par. 746

5 ILCS 220/6.5 new

Amends the Intergovernmental Cooperation Act. Provides that joint insurance pools and other intergovernmental cooperatives offering insurance are subject to the Illinois Insurance Code's regulation of improper claims practices and attorney fees. If the Director of Insurance finds that a pool or cooperative has engaged in an improper claims practice, authorizes the Director to issue charges against the pool or cooperative, conduct a hearing on the charges, suspend the pool's or cooperative's authority to self-insure for up to 6 months, and impose a civil penalty of up to \$250,000.

LRB095 04190 JAM 24605 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Intergovernmental Cooperation Act is
5 amended by changing Section 6 and by adding Section 6.5 as
6 follows:

7 (5 ILCS 220/6) (from Ch. 127, par. 746)

8 Sec. 6. Joint self-insurance. An intergovernmental
9 contract may, among other undertakings, authorize public
10 agencies to jointly self-insure and authorize each public
11 agency member of the contract to utilize its funds to pay to a
12 joint insurance pool its costs and reserves to protect, wholly
13 or partially, itself or any public agency member of the
14 contract against liability or loss in the designated insurable
15 area. A joint insurance pool shall have an annual audit
16 performed by an independent certified public accountant and
17 shall file an annual audited financial report with the Director
18 of Insurance no later than 150 days after the end of the pool's
19 immediately preceding fiscal year. The Director of Insurance
20 shall issue rules necessary to implement this audit and report
21 requirement. The rule shall establish the due date for filing
22 the initial annual audited financial report. Within 30 days
23 after January 1, 1991, and within 30 days after each January 1

1 thereafter, public agencies that are jointly self-insured to
2 protect against liability under the Workers' Compensation Act
3 and the Workers' Occupational Diseases Act shall file with the
4 Illinois Workers' Compensation Commission a report indicating
5 an election to self-insure.

6 For purposes of this Section, "public agency member" means
7 any public agency defined or created under this Act, any local
8 public entity as defined in Section 1-206 of the Local
9 Governmental and Governmental Employees Tort Immunity Act, and
10 any public agency, authority, instrumentality, council, board,
11 service region, district, unit, bureau, or, commission, or any
12 municipal corporation, college, or university, whether
13 corporate or otherwise, and any other local governmental body
14 or similar entity that is presently existing or created after
15 the effective date of this amendatory Act of the 92nd General
16 Assembly, whether or not specified in this Section. Only public
17 agency members with tax receipts, tax revenues, taxing
18 authority, or other resources sufficient to pay costs and to
19 service debt related to intergovernmental activities described
20 in this Section, or public agency members created by or as part
21 of a public agency with these powers, may enter into contracts
22 or otherwise associate among themselves as permitted in this
23 Section.

24 No joint insurance pool or other intergovernmental
25 cooperative offering health insurance shall interfere with the
26 statutory obligation of any public agency member to bargain

1 over or to reach agreement with a labor organization over a
2 mandatory subject of collective bargaining as those terms are
3 used in the Illinois Public Labor Relations Act. No
4 intergovernmental contract of insurance offering health
5 insurance shall limit the rights or obligations of public
6 agency members to engage in collective bargaining, and it shall
7 be unlawful for a joint insurance pool or other
8 intergovernmental cooperative offering health insurance to
9 discriminate against public agency members or otherwise
10 retaliate against such members for limiting their
11 participation in a joint insurance pool as a result of a
12 collective bargaining agreement.

13 It shall not be considered a violation of this Section for
14 an intergovernmental contract of insurance relating to health
15 insurance coverage, life insurance coverage, or both to permit
16 the pool or cooperative, if a member withdraws employees or
17 officers into a union-sponsored program, to re-price the costs
18 of benefits provided to the continuing employees or officers
19 based upon the same underwriting criteria used by that pool or
20 cooperative in the normal course of its business, but no member
21 shall be expelled from a pool or cooperative if the continuing
22 employees or officers meet the general criteria required of
23 other members.

24 All actions by the joint insurance pool or other
25 intergovernmental cooperative offering any insurance as
26 authorized by this Section (and associated third-party

1 administrators) are subject to Sections 154.5, 154.6, and 155
2 of the Illinois Insurance Code (215 ILCS 5/154.5, 5/154.6, and
3 5/155) as if the pool or cooperative were an assessable
4 domestic mutual insurance company.

5 (Source: P.A. 93-721, eff. 1-1-05; 94-685, eff. 11-2-05.)

6 (5 ILCS 220/6.5 new)

7 Sec. 6.5. Statement of charges with respect to joint
8 insurance pool or other intergovernmental cooperative offering
9 insurance.

10 (a) Whenever the Director of Insurance finds that any joint
11 insurance pool or other intergovernmental cooperative is
12 engaging in any improper claims practice as defined in Section
13 154.5 of the Illinois Insurance Code, and that a proceeding in
14 respect to that practice would be in the public interest, he or
15 she shall issue and serve upon that pool or cooperative a
16 statement of the charges in that respect and a notice of
17 hearing. The notice shall set a hearing date not less than 10
18 days after the date of the notice.

19 (b) The failure of a pool or cooperative to appear at a
20 hearing after receipt of a statement of the charges and notice
21 of hearing (i) is considered a waiver of notice and hearing,
22 (ii) is considered a stipulation that the charges against the
23 pool or cooperative are true, and (iii) immediately suspends
24 that pool's or cooperative's authority conferred by Section 6
25 for 30 days. The Director of Insurance must notify the pool or

1 cooperative of any suspension or action taken under this
2 Section.

3 (c) If after a hearing pursuant to this Section the
4 Director finds that the pool or cooperative has engaged in an
5 improper claims practice, he or she shall order the pool or
6 cooperative to cease and desist from that practice and, in the
7 exercise of reasonable discretion, may suspend the pool's or
8 cooperative's authority to self-insure conferred by Section 6
9 for a period not to exceed 6 months or impose a civil penalty
10 of up to \$250,000, or both. Pursuant to Section 401 of the
11 Illinois Insurance Code, the Director shall promulgate rules
12 establishing standards for the implementation of this Section.

13 (d) Any order of the Director of Insurance pursuant to this
14 Section is subject to judicial review under Section 407 of the
15 Illinois Insurance Code.